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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,618	02/12/2001	Martin Sommer	SGW-109	9111

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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
2200 CLARENDON BLVD.  
SUITE 1400  
ARLINGTON, VA 22201

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 05/29/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

# **Advisory Action**

**Application No.**

09/780,618

**Applicant(s)**

SOMMER ET AL.

**Examiner**

Alicia Chevalier

**Art Unit**

1772

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

## **PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-6,9-11,13-22 and 25-27.

Claim(s) withdrawn from consideration: 7,12,23,24 and 28.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: it remains the Examiner's position that the claims are unpatentable for reasons previously of record in the final office action, paper #9 filed on February 26, 2003.

Applicant's arguments filed in paper #10 regarding the outstanding rejections have been considered but are deemed unpersuasive.


Applicant argues that none of the prior art teach an embodiment where cold pressure weld is used. The limitations on which Applicant relies (i.e., cold pressure weld) are not stated in the claims. It is the claims that define the claimed invention, and it is claims, not specifications that are anticipated or unpatentable. Claim 1 merely claims a means of connecting pressure welds, claim 9 only claims means of welding by movement, claim 13 claims the cold pressure weld in alternative form with 7 other weld means, but never specifically states that it has to be a cold pressure weld, claim 15 claims a means of connecting pressure welds, and claim 26 claims a means of connecting pressure welds. None of the claims specifically recite that the molded element must be made with a cold pressure weld. Furthermore, Applicant's specification (see pages 8-9) teaches that other bonding means such as ultrasound weld, high-frequency weld, rotary weld, friction weld, torsional or orbital weld, or abrasive weld are just as expectable as cold pressure weld. Therefore, Applicant's arguments regarding the structural differences and improved properties gained from cold pressure welds is found to be not commensurate in scope with the claims or the specification.

Applicant's references from the Internet are not proper references for evidence. Each publication to be considered "must be identified by publisher, author, title, relevant pages of the publication, date, and place of publication," 37 CFR 1.98. Furthermore, Internet sources are not reliable sources of information since the same document may not be available for retrieval in the future.

Applicant's arguments filed in paper #10 regarding the outstanding restriction requirement have been considered but are deemed unpersuasive.

Applicant argues that the articles of the withdrawn product claims are combinations of the product of the prosecuted claims. The examiner disagrees with this assessment of the relationship of the withdrawn claims to the prosecuted claims. As stated in the final office action, paper #9, the originally filled claims were drawn to a molded element and amended claim 7 and new claim 12 are drawn to a laminated glass system, claim 23 is drawn to an electrochromic glazing claim 24 is drawn to a mirror and claim 28 is drawn to a process for sealing an opening. The originally filed claims are the intermediate product and the laminated glass system, electrochromic glazing, and mirror are the final products, MPEP 806.04 (b) and MPEP 806.04 (h). In the instant case, the intermediate product is deemed to be useful as display and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the claims. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is correct about claim 28 that is the elected invention is directed to the product and the claims directed to the product are subsequently found patentable, process claims which either depend from or include all the limitations of the allowable product will be rejoined. Rejoined is also appropriate for depended non-elected species such as claims 7, 12, 23 and 24, upon founding the independent claim patentable.

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772 5/28/03